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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,721	11/04/2003	Hideki Seki	4041J-000804	2257
27572	7590	07/18/2006		EXAMINER
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				FORD, JOHN K
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/700,721	SEKI ET AL.	
	Examiner	Art Unit	
	John K. Ford	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 4/20/06

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3 is/are pending in the application.

4a) Of the above claim(s) 2-5, 8, 9 and 13 is/are withdrawn from consideration.

5) Claim(s) 1, 6, 7, 10-12 is/are allowed.

6) Claim(s) 1, 6, 7, 10-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 11/4/03 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/4/03</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Applicant's election of the fifth species described in the specification beginning at page 41, line 8 and shown in Figures 12-14, without traverse, is acknowledged. Applicant, as readable on the elected species, has identified claims 1, 6, 7 and 10-12. Of the enumerated claims the examiner does not believe claim 7, as written, is descriptive of the elected species.

Applicant has disclosed one piece of prior art so material as to the proper examination of this application as to require translation. A translation of JP 5-58143 should be readily available to applicants given the volume of Japanese to English translations that Denso procures.

Claim interpretation

In regard to claim 10, orientation of the device in the vehicle is not given patentable weight unless the claims are clearly drawn to a combined vehicle and air conditioner. See MPEP 2114.. Currently the claims are drawn to an air conditioner *per se*.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3753

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 does not appear to be descriptive of the elected species of Figures 12-14. There is no foot opening in the right and left side walls to opposite the side plates of the first rotary door. This only appears to be disclosed in non-elected Figure 3 at 22, not in any of Figures 12-14. To the extent that claim 7 is intended to claim some feature of Figures 12-14, it is deemed to be mis-descriptive. The phrase "to opposite" appears to be improper diction. What does it mean?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 7 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Kageme (JP 5-58143) and Shibata (USP 6,261,172).

Kageme, cited by applicant shows all of the claimed features (including the defrost outlet 6, vent outlet 5, foot outlet 4 and two rotary doors 12 and 13), with the possible exception of end plates at opposite ends of rotary doors 12 and 13 (although

these may be shown in Figure 2). Shibata, assigned to Denso, teaches two end plates 23 at opposite ends of a rotary door 13. To have constructed each of the rotary doors 12 and 13 of Kageme with two end plates as taught by Shibata at 23, at opposite ends of a rotary door 13, would have been obvious to one of ordinary skill to advantageously obtain a simple strong structure for supporting the arcuate portion of the door in its proper position.

In addition, in regards to claims 7 and 10-12, Shibata, teaches ports 26 and 27 and 28a that deliver conditioned air to the side face air passages at all times as disclosed in column 5, lines 8-16. To have added such side face air vents to Kageme, with ports 26, 27 and 28a connected in operative relationship to Kageme's rotary damper 13, would have been obvious to one of ordinary skill in the art to improve occupant comfort and advantageously improve defrosting performance (a motivation for making the combination explicitly disclosed in Shibata, col. 1, lines 32-35).

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.



JOHN K. FORD
Primary Examiner